

AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE AUGUST 30, 2013

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 971

Introduced by Assembly Member Garcia

February 22, 2013

An act to amend Section 15975 of the Government Code, and to amend Sections 11105 and 13300 of the Penal Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 971, as amended, Garcia. Public agency employers: paratransit providers: criminal history information.

Existing law requires the Attorney General to furnish state summary criminal history information to a city, county, city and county, or district, or an officer or official thereof, when that information is needed in fulfilling employment, certification, or licensing duties, as specified, subject to specified restrictions as to arrests or detentions that did not result in a conviction. Other provisions of existing law authorize the Attorney General to provide summary criminal history information to specified persons or entities for specified purposes. Existing law provides a similar provision with respect to authorizing a local public entity to receive local criminal history information.

This bill additionally would require the Attorney General to furnish, and would authorize a local criminal justice agency to furnish, summary

criminal information to a specified social services paratransit agency with respect to its contracted providers, and would further make technical, nonsubstantive, and conforming changes.

~~This bill would incorporate additional changes in Section 11105 of the Penal Code made by SB 530, to become operative if SB 530 and this bill become effective on or before January 1, 2014, and this bill is enacted last.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15975 of the Government Code is
2 amended to read:

3 15975. (a) The transportation planning agencies and the county
4 transportation commissions shall prepare and adopt an action plan
5 that describes in detail the steps required to accomplish the
6 consolidation of social service transportation services. Funding
7 for the action plan shall be provided from local transportation funds
8 made available under Chapter 4 (commencing with Section 99200)
9 of Part 11 of Division 10 of the Public Utilities Code. The action
10 plan shall substantiate that one or more of the benefits indicated
11 in Sections 15951 and 15952 are feasible for the services in a given
12 geographic area. The action plan shall include, but not be limited
13 to, the following:

14 (1) The designation of consolidated transportation service
15 agencies within the geographic area of jurisdiction of the
16 transportation planning agency or county transportation
17 commission. The action plan may designate more than a single
18 agency or multiple agencies as consolidated transportation service
19 agencies, if improved coordination of all services is demonstrated
20 within the geographic area. In Ventura County, the county
21 transportation commission is the consolidated transportation service
22 agency.

23 The action plan may also specify that the consolidation of some
24 services and the coordination of other services is the most feasible
25 approach, at the time the action plan is submitted, which will
26 provide improved efficiency and effectiveness of those services.

27 (2) The identification of the social service recipients to be
28 served, of funds available for use by the consolidated or

1 coordinated services, and of an orderly strategy and schedule
2 detailing the steps required to develop the financial program and
3 management structure necessary to implement consolidated or
4 coordinated services.

5 (3) Measures to coordinate the services provided under
6 paragraph (1) with existing fixed route service provided by public
7 and private transportation providers.

8 (4) Measures for the effective coordination of specialized
9 transportation service from one provider service area to another.

10 (5) Measures to ensure that the objectives of the action plan are
11 consistent with the legislative intent declared in Section 15951.

12 (b) An entity formed by the regional transportation planning
13 authority as a nonprofit public benefit corporation, designated as
14 a consolidated transportation services agency under this section
15 and charged with administering a countywide coordinated
16 paratransit plan adopted pursuant to Section 37.141 of Chapter 49
17 of the Code of Federal Regulations shall, for the purposes of
18 paragraph (2) of subdivision (e) of Section 14055 and Part 1
19 (commencing with Section 810) and Part 2 (commencing with
20 Section 814) of Division 3.6, be deemed a “public agency” within
21 the meaning of “public entity,” as defined in Section 811.2.

22 SEC. 2. Section 11105 of the Penal Code is amended to read:

23 11105. (a) (1) The Department of Justice shall maintain state
24 summary criminal history information.

25 (2) As used in this section:

26 (A) “State summary criminal history information” means the
27 master record of information compiled by the Attorney General
28 pertaining to the identification and criminal history of any person,
29 such as name, date of birth, physical description, fingerprints,
30 photographs, dates of arrests, arresting agencies and booking
31 numbers, charges, dispositions, and similar data about the person.

32 (B) “State summary criminal history information” does not refer
33 to records and data compiled by criminal justice agencies other
34 than the Attorney General, nor does it refer to records of complaints
35 to or investigations conducted by, or records of intelligence
36 information or security procedures of, the office of the Attorney
37 General and the Department of Justice.

38 (b) The Attorney General shall furnish state summary criminal
39 history information to any of the following, if needed in the course
40 of their duties, provided that when information is furnished to

1 assist an agency, officer, or official of state or local government,
2 a public utility, or any other entity, in fulfilling employment,
3 certification, or licensing duties, Chapter 1321 of the Statutes of
4 1974 and Section 432.7 of the Labor Code shall apply:

5 (1) The courts of the state.

6 (2) Peace officers of the state, as defined in Section 830.1,
7 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
8 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
9 (a) of Section 830.31.

10 (3) District attorneys of the state.

11 (4) Prosecuting city attorneys of any city within the state.

12 (5) City attorneys pursuing civil gang injunctions pursuant to
13 Section 186.22a, or drug abatement actions pursuant to Section
14 3479 or 3480 of the Civil Code, or Section 11571 of the Health
15 and Safety Code.

16 (6) Probation officers of the state.

17 (7) Parole officers of the state.

18 (8) A public defender or attorney of record when representing
19 a person in proceedings upon a petition for a certificate of
20 rehabilitation and pardon pursuant to Section 4852.08.

21 (9) A public defender or attorney of record when representing
22 a person in a criminal case, or a parole, mandatory supervision
23 pursuant to paragraph (5) of subdivision (h) of Section 1170, or
24 postrelease community supervision revocation or revocation
25 extension proceeding, and if authorized access by statutory or
26 decisional law.

27 (10) Any agency, officer, or official of the state if the criminal
28 history information is required to implement a statute or regulation
29 that expressly refers to specific criminal conduct applicable to the
30 subject person of the state summary criminal history information,
31 and contains requirements or exclusions, or both, expressly based
32 upon that specified criminal conduct. The agency, officer, or
33 official of the state authorized by this paragraph to receive state
34 summary criminal history information may also transmit fingerprint
35 images and related information to the Department of Justice to be
36 transmitted to the Federal Bureau of Investigation.

37 (11) Any city or county, city and county, district, or any officer
38 or official thereof if access is needed in order to assist that agency,
39 officer, or official in fulfilling employment, certification, or
40 licensing duties, and if the access is specifically authorized by the

1 city council, board of supervisors, or governing board of the city,
2 county, or district if the criminal history information is required
3 to implement a statute, ordinance, or regulation that expressly
4 refers to specific criminal conduct applicable to the subject person
5 of the state summary criminal history information, and contains
6 requirements or exclusions, or both, expressly based upon that
7 specified criminal conduct. The city or county, city and county,
8 district, or the officer or official thereof authorized by this
9 paragraph may also transmit fingerprint images and related
10 information to the Department of Justice to be transmitted to the
11 Federal Bureau of Investigation.

12 (12) The subject of the state summary criminal history
13 information under procedures established under Article 5
14 (commencing with Section 11120).

15 (13) Any person or entity when access is expressly authorized
16 by statute if the criminal history information is required to
17 implement a statute or regulation that expressly refers to specific
18 criminal conduct applicable to the subject person of the state
19 summary criminal history information, and contains requirements
20 or exclusions, or both, expressly based upon that specified criminal
21 conduct.

22 (14) Health officers of a city, county, city and county, or district
23 when in the performance of their official duties enforcing Section
24 120175 of the Health and Safety Code.

25 (15) Any managing or supervising correctional officer of a
26 county jail or other county correctional facility.

27 (16) Any humane society, or society for the prevention of cruelty
28 to animals, for the specific purpose of complying with Section
29 14502 of the Corporations Code for the appointment of humane
30 officers.

31 (17) Local child support agencies established by Section 17304
32 of the Family Code. When a local child support agency closes a
33 support enforcement case containing summary criminal history
34 information, the agency shall delete or purge from the file and
35 destroy any documents or information concerning or arising from
36 offenses for or of which the parent has been arrested, charged, or
37 convicted, other than for offenses related to the parent's having
38 failed to provide support for minor children, consistent with the
39 requirements of Section 17531 of the Family Code.

1 (18) County child welfare agency personnel who have been
2 delegated the authority of county probation officers to access state
3 summary criminal history information pursuant to Section 272 of
4 the Welfare and Institutions Code for the purposes specified in
5 Section 16504.5 of the Welfare and Institutions Code. Information
6 from criminal history records provided pursuant to this subdivision
7 shall not be used for any purposes other than those specified in
8 this section and Section 16504.5 of the Welfare and Institutions
9 Code. When an agency obtains records obtained both on the basis
10 of name checks and fingerprint checks, final placement decisions
11 shall be based only on the records obtained pursuant to the
12 fingerprint check.

13 (19) The court of a tribe, or court of a consortium of tribes, that
14 has entered into an agreement with the state pursuant to Section
15 10553.1 of the Welfare and Institutions Code. This information
16 may be used only for the purposes specified in Section 16504.5
17 of the Welfare and Institutions Code and for tribal approval or
18 tribal licensing of foster care or adoptive homes. Article 6
19 (commencing with Section 11140) shall apply to officers, members,
20 and employees of a tribal court receiving criminal record offender
21 information pursuant to this section.

22 (20) Child welfare agency personnel of a tribe or consortium
23 of tribes that has entered into an agreement with the state pursuant
24 to Section 10553.1 of the Welfare and Institutions Code and to
25 whom the state has delegated duties under paragraph (2) of
26 subdivision (a) of Section 272 of the Welfare and Institutions Code.
27 The purposes for use of the information shall be for the purposes
28 specified in Section 16504.5 of the Welfare and Institutions Code
29 and for tribal approval or tribal licensing of foster care or adoptive
30 homes. When an agency obtains records on the basis of name
31 checks and fingerprint checks, final placement decisions shall be
32 based only on the records obtained pursuant to the fingerprint
33 check. Article 6 (commencing with Section 11140) shall apply to
34 child welfare agency personnel receiving criminal record offender
35 information pursuant to this section.

36 (21) An officer providing conservatorship investigations
37 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
38 Institutions Code.

1 (22) A court investigator providing investigations or reviews
2 in conservatorships pursuant to Section 1826, 1850, 1851, or
3 2250.6 of the Probate Code.

4 (23) A person authorized to conduct a guardianship investigation
5 pursuant to Section 1513 of the Probate Code.

6 (24) A humane officer pursuant to Section 14502 of the
7 Corporations Code for the purposes of performing his or her duties.

8 (25) A public agency described in subdivision (b) of Section
9 15975 of the Government Code, for the purpose of oversight and
10 enforcement policies with respect to its contracted providers.

11 (c) The Attorney General may furnish state summary criminal
12 history information and, when specifically authorized by this
13 subdivision, federal level criminal history information upon a
14 showing of a compelling need to any of the following, provided
15 that when information is furnished to assist an agency, officer, or
16 official of state or local government, a public utility, or any other
17 entity in fulfilling employment, certification, or licensing duties,
18 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
19 Labor Code shall apply:

20 (1) Any public utility, as defined in Section 216 of the Public
21 Utilities Code, that operates a nuclear energy facility when access
22 is needed in order to assist in employing persons to work at the
23 facility, provided that, if the Attorney General supplies the data,
24 he or she shall furnish a copy of the data to the person to whom
25 the data relates.

26 (2) To a peace officer of the state other than those included in
27 subdivision (b).

28 (3) To an illegal dumping enforcement officer as defined in
29 subdivision (j) of Section 830.7.

30 (4) To a peace officer of another country.

31 (5) To public officers, other than peace officers, of the United
32 States, other states, or possessions or territories of the United
33 States, provided that access to records similar to state summary
34 criminal history information is expressly authorized by a statute
35 of the United States, other states, or possessions or territories of
36 the United States if the information is needed for the performance
37 of their official duties.

38 (6) To any person when disclosure is requested by a probation,
39 parole, or peace officer with the consent of the subject of the state

1 summary criminal history information and for purposes of
2 furthering the rehabilitation of the subject.

3 (7) The courts of the United States, other states, or territories
4 or possessions of the United States.

5 (8) Peace officers of the United States, other states, or territories
6 or possessions of the United States.

7 (9) To any individual who is the subject of the record requested
8 if needed in conjunction with an application to enter the United
9 States or any foreign nation.

10 (10) (A) (i) Any public utility, as defined in Section 216 of the
11 Public Utilities Code, or any cable corporation as defined in
12 subparagraph (B), if receipt of criminal history information is
13 needed in order to assist in employing current or prospective
14 employees, contract employees, or subcontract employees who,
15 in the course of their employment may be seeking entrance to
16 private residences or adjacent grounds. The information provided
17 shall be limited to the record of convictions and any arrest for
18 which the person is released on bail or on his or her own
19 recognizance pending trial.

20 (ii) If the Attorney General supplies the data pursuant to this
21 paragraph, the Attorney General shall furnish a copy of the data
22 to the current or prospective employee to whom the data relates.

23 (iii) Any information obtained from the state summary criminal
24 history is confidential and the receiving public utility or cable
25 corporation shall not disclose its contents, other than for the
26 purpose for which it was acquired. The state summary criminal
27 history information in the possession of the public utility or cable
28 corporation and all copies made from it shall be destroyed not
29 more than 30 days after employment or promotion or transfer is
30 denied or granted, except for those cases where a current or
31 prospective employee is out on bail or on his or her own
32 recognizance pending trial, in which case the state summary
33 criminal history information and all copies shall be destroyed not
34 more than 30 days after the case is resolved.

35 (iv) A violation of this paragraph is a misdemeanor, and shall
36 give the current or prospective employee who is injured by the
37 violation a cause of action against the public utility or cable
38 corporation to recover damages proximately caused by the
39 violations. Any public utility's or cable corporation's request for
40 state summary criminal history information for purposes of

1 employing current or prospective employees who may be seeking
2 entrance to private residences or adjacent grounds in the course
3 of their employment shall be deemed a “compelling need” as
4 required to be shown in this subdivision.

5 (v) Nothing in this section shall be construed as imposing any
6 duty upon public utilities or cable corporations to request state
7 summary criminal history information on any current or prospective
8 employees.

9 (B) For purposes of this paragraph, “cable corporation” means
10 any corporation or firm that transmits or provides television,
11 computer, or telephone services by cable, digital, fiber optic,
12 satellite, or comparable technology to subscribers for a fee.

13 (C) Requests for federal level criminal history information
14 received by the Department of Justice from entities authorized
15 pursuant to subparagraph (A) shall be forwarded to the Federal
16 Bureau of Investigation by the Department of Justice. Federal level
17 criminal history information received or compiled by the
18 Department of Justice may then be disseminated to the entities
19 referenced in subparagraph (A), as authorized by law.

20 (D) (i) Authority for a cable corporation to request state or
21 federal level criminal history information under this paragraph
22 shall commence July 1, 2005.

23 (ii) Authority for a public utility to request federal level criminal
24 history information under this paragraph shall commence July 1,
25 2005.

26 (11) To any campus of the California State University or the
27 University of California, or any four year college or university
28 accredited by a regional accreditation organization approved by
29 the United States Department of Education, if needed in
30 conjunction with an application for admission by a convicted felon
31 to any special education program for convicted felons, including,
32 but not limited to, university alternatives and halfway houses. Only
33 conviction information shall be furnished. The college or university
34 may require the convicted felon to be fingerprinted, and any inquiry
35 to the department under this section shall include the convicted
36 felon’s fingerprints and any other information specified by the
37 department.

38 (12) To any foreign government, if requested by the individual
39 who is the subject of the record requested, if needed in conjunction
40 with the individual’s application to adopt a minor child who is a

1 citizen of that foreign nation. Requests for information pursuant
2 to this paragraph shall be in accordance with the process described
3 in Sections 11122 to 11124, inclusive. The response shall be
4 provided to the foreign government or its designee and to the
5 individual who requested the information.

6 (d) Whenever an authorized request for state summary criminal
7 history information pertains to a person whose fingerprints are on
8 file with the Department of Justice and the department has no
9 criminal history of that person, and the information is to be used
10 for employment, licensing, or certification purposes, the fingerprint
11 card accompanying the request for information, if any, may be
12 stamped “no criminal record” and returned to the person or entity
13 making the request.

14 (e) Whenever state summary criminal history information is
15 furnished as the result of an application and is to be used for
16 employment, licensing, or certification purposes, the Department
17 of Justice may charge the person or entity making the request a
18 fee that it determines to be sufficient to reimburse the department
19 for the cost of furnishing the information. In addition, the
20 Department of Justice may add a surcharge to the fee to fund
21 maintenance and improvements to the systems from which the
22 information is obtained. Notwithstanding any other law, any person
23 or entity required to pay a fee to the department for information
24 received under this section may charge the applicant a fee sufficient
25 to reimburse the person or entity for this expense. All moneys
26 received by the department pursuant to this section, Sections
27 11105.3 and 26190, and former Section 13588 of the Education
28 Code shall be deposited in a special account in the General Fund
29 to be available for expenditure by the department to offset costs
30 incurred pursuant to those sections and for maintenance and
31 improvements to the systems from which the information is
32 obtained upon appropriation by the Legislature.

33 (f) Whenever there is a conflict, the processing of criminal
34 fingerprints and fingerprints of applicants for security guard or
35 alarm agent registrations or firearms qualification permits
36 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
37 of the Business and Professions Code shall take priority over the
38 processing of other applicant fingerprints.

1 (g) It is not a violation of this section to disseminate statistical
2 or research information obtained from a record, provided that the
3 identity of the subject of the record is not disclosed.

4 (h) It is not a violation of this section to include information
5 obtained from a record in (1) a transcript or record of a judicial or
6 administrative proceeding or (2) any other public record if the
7 inclusion of the information in the public record is authorized by
8 a court, statute, or decisional law.

9 (i) Notwithstanding any other law, the Department of Justice
10 or any state or local law enforcement agency may require the
11 submission of fingerprints for the purpose of conducting summary
12 criminal history information checks that are authorized by law.

13 (j) The state summary criminal history information shall include
14 any finding of mental incompetence pursuant to Chapter 6
15 (commencing with Section 1367) of Title 10 of Part 2 arising out
16 of a complaint charging a felony offense specified in Section 290.

17 (k) (1) This subdivision shall apply whenever state or federal
18 summary criminal history information is furnished by the
19 Department of Justice as the result of an application by an
20 authorized agency or organization and the information is to be
21 used for peace officer employment or certification purposes. As
22 used in this subdivision, a peace officer is defined in Chapter 4.5
23 (commencing with Section 830) of Title 3 of Part 2.

24 (2) Notwithstanding any other provision of law, whenever state
25 summary criminal history information is initially furnished
26 pursuant to paragraph (1), the Department of Justice shall
27 disseminate the following information:

28 (A) Every conviction rendered against the applicant.

29 (B) Every arrest for an offense for which the applicant is
30 presently awaiting trial, whether the applicant is incarcerated or
31 has been released on bail or on his or her own recognizance
32 pending trial.

33 (C) Every arrest or detention, except for an arrest or detention
34 resulting in an exoneration, provided, however, that where the
35 records of the Department of Justice do not contain a disposition
36 for the arrest, the Department of Justice first makes a genuine effort
37 to determine the disposition of the arrest.

38 (D) Every successful diversion.

39 (E) Every date and agency name associated with all retained
40 peace officer or nonsworn law enforcement agency employee

1 preemployment criminal offender record information search
2 requests.

3 (l) (1) This subdivision shall apply whenever state or federal
4 summary criminal history information is furnished by the
5 Department of Justice as the result of an application by a criminal
6 justice agency or organization as defined in Section 13101, and
7 the information is to be used for criminal justice employment,
8 licensing, or certification purposes.

9 (2) Notwithstanding any other provision of law, whenever state
10 summary criminal history information is initially furnished
11 pursuant to paragraph (1), the Department of Justice shall
12 disseminate the following information:

13 (A) Every conviction rendered against the applicant.

14 (B) Every arrest for an offense for which the applicant is
15 presently awaiting trial, whether the applicant is incarcerated or
16 has been released on bail or on his or her own recognizance
17 pending trial.

18 (C) Every arrest for an offense for which the records of the
19 Department of Justice do not contain a disposition or did not result
20 in a conviction, provided that the Department of Justice first makes
21 a genuine effort to determine the disposition of the arrest. However,
22 information concerning an arrest shall not be disclosed if the
23 records of the Department of Justice indicate or if the genuine
24 effort reveals that the subject was exonerated, successfully
25 completed a diversion or deferred entry of judgment program, or
26 the arrest was deemed a detention.

27 (D) Every date and agency name associated with all retained
28 peace officer or nonsworn law enforcement agency employee
29 preemployment criminal offender record information search
30 requests.

31 (m) (1) This subdivision shall apply whenever state or federal
32 summary criminal history information is furnished by the
33 Department of Justice as the result of an application by an
34 authorized agency or organization pursuant to Section 1522,
35 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
36 any statute that incorporates the criteria of any of those sections
37 or this subdivision by reference, and the information is to be used
38 for employment, licensing, or certification purposes.

39 (2) Notwithstanding any other provision of law, whenever state
40 summary criminal history information is initially furnished

1 pursuant to paragraph (1), the Department of Justice shall
2 disseminate the following information:

3 (A) Every conviction of an offense rendered against the
4 applicant.

5 (B) Every arrest for an offense for which the applicant is
6 presently awaiting trial, whether the applicant is incarcerated or
7 has been released on bail or on his or her own recognizance
8 pending trial.

9 (C) Every arrest for an offense for which the Department of
10 Social Services is required by paragraph (1) of subdivision (a) of
11 Section 1522 of the Health and Safety Code to determine if an
12 applicant has been arrested. However, if the records of the
13 Department of Justice do not contain a disposition for an arrest,
14 the Department of Justice shall first make a genuine effort to
15 determine the disposition of the arrest.

16 (3) Notwithstanding the requirements of the sections referenced
17 in paragraph (1) of this subdivision, the Department of Justice
18 shall not disseminate information about an arrest subsequently
19 deemed a detention or an arrest that resulted in either the successful
20 completion of a diversion program or exoneration.

21 (n) (1) This subdivision shall apply whenever state or federal
22 summary criminal history information, to be used for employment,
23 licensing, or certification purposes, is furnished by the Department
24 of Justice as the result of an application by an authorized agency,
25 organization, or individual pursuant to any of the following:

26 (A) Paragraph (9) of subdivision (c), when the information is
27 to be used by a cable corporation.

28 (B) Section 11105.3 or 11105.4.

29 (C) Section 15660 of the Welfare and Institutions Code.

30 (D) Any statute that incorporates the criteria of any of the
31 statutory provisions listed in subparagraph (A), (B), or (C), or of
32 this subdivision, by reference.

33 (2) With the exception of applications submitted by
34 transportation companies authorized pursuant to Section 11105.3,
35 and notwithstanding any other provision of law, whenever state
36 summary criminal history information is initially furnished
37 pursuant to paragraph (1), the Department of Justice shall
38 disseminate the following information:

39 (A) Every conviction rendered against the applicant for a
40 violation or attempted violation of any offense specified in

subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 550 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section

1 or this subdivision by reference, and the information is to be used
2 for employment, licensing, or certification purposes.

3 (2) Notwithstanding any other provisions of law, whenever state
4 summary criminal history information is initially furnished
5 pursuant to paragraph (1), the Department of Justice shall
6 disseminate the following information:

7 (A) Every conviction rendered against the applicant.

8 (B) Every arrest for an offense for which the applicant is
9 presently awaiting trial, whether the applicant is incarcerated or
10 has been released on bail or on his or her own recognizance
11 pending trial.

12 (q) All agencies, organizations, or individuals defined in
13 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
14 Department of Justice for subsequent notification pursuant to
15 Section 11105.2. This subdivision shall not supersede sections that
16 mandate an agency, organization, or individual to contract with
17 the Department of Justice for subsequent notification pursuant to
18 Section 11105.2.

19 (r) Nothing in this section shall be construed to mean that the
20 Department of Justice shall cease compliance with any other
21 statutory notification requirements.

22 (s) The provisions of Section 50.12 of Title 28 of the Code of
23 Federal Regulations are to be followed in processing federal
24 criminal history information.

25 (t) Whenever state or federal summary criminal history
26 information is furnished by the Department of Justice as the result
27 of an application by an authorized agency, organization, or
28 individual defined in subdivisions (k) to (p), inclusive, and the
29 information is to be used for employment, licensing, or certification
30 purposes, the authorized agency, organization, or individual shall
31 expeditiously furnish a copy of the information to the person to
32 whom the information relates if the information is a basis for an
33 adverse employment, licensing, or certification decision. When
34 furnished other than in person, the copy shall be delivered to the
35 last contact information provided by the applicant.

36 ~~SEC. 2.5. Section 11105 of the Penal Code is amended to read:~~
37 ~~11105. (a) (1) The Department of Justice shall maintain state~~
38 ~~summary criminal history information.~~

39 ~~(2) As used in this section:~~

1 ~~(A) “State summary criminal history information” means the~~
2 ~~master record of information compiled by the Attorney General~~
3 ~~pertaining to the identification and criminal history of any person;~~
4 ~~such as name, date of birth, physical description, fingerprints,~~
5 ~~photographs, dates of arrests, arresting agencies and booking~~
6 ~~numbers, charges, dispositions, and similar data about the person.~~

7 ~~(B) “State summary criminal history information” does not refer~~
8 ~~to records and data compiled by criminal justice agencies other~~
9 ~~than the Attorney General, nor does it refer to records of complaints~~
10 ~~to or investigations conducted by, or records of intelligence~~
11 ~~information or security procedures of, the office of the Attorney~~
12 ~~General and the Department of Justice.~~

13 ~~(b) The Attorney General shall furnish state summary criminal~~
14 ~~history information to any of the following, if needed in the course~~
15 ~~of their duties, provided that when information is furnished to~~
16 ~~assist an agency, officer, or official of state or local government,~~
17 ~~a public utility, or any other entity, in fulfilling employment,~~
18 ~~certification, or licensing duties, Chapter 1321 of the Statutes of~~
19 ~~1974 and Section 432.7 of the Labor Code shall apply:~~

20 ~~(1) The courts of the state.~~

21 ~~(2) Peace officers of the state, as defined in Section 830.1,~~
22 ~~subdivisions (a) and (c) of Section 830.2, subdivision (a) of Section~~
23 ~~830.3, subdivisions (a) and (b) of Section 830.5, and subdivision~~
24 ~~(a) of Section 830.31.~~

25 ~~(3) District attorneys of the state.~~

26 ~~(4) Prosecuting city attorneys of any city within the state.~~

27 ~~(5) City attorneys pursuing civil gang injunctions pursuant to~~
28 ~~Section 186.22a, or drug abatement actions pursuant to Section~~
29 ~~3479 or 3480 of the Civil Code, or Section 11571 of the Health~~
30 ~~and Safety Code.~~

31 ~~(6) Probation officers of the state.~~

32 ~~(7) Parole officers of the state.~~

33 ~~(8) A public defender or attorney of record when representing~~
34 ~~a person in proceedings upon a petition for a certificate of~~
35 ~~rehabilitation and pardon pursuant to Section 4852.08.~~

36 ~~(9) A public defender or attorney of record when representing~~
37 ~~a person in a criminal case, or a parole, mandatory supervision~~
38 ~~pursuant to paragraph (5) of subdivision (h) of Section 1170, or~~
39 ~~postrelease community supervision revocation or revocation~~

1 ~~extension proceeding, and if authorized access by statutory or~~
2 ~~decisional law.~~

3 ~~(10) Any agency, officer, or official of the state if the criminal~~
4 ~~history information is required to implement a statute or regulation~~
5 ~~that expressly refers to specific criminal conduct applicable to the~~
6 ~~subject person of the state summary criminal history information,~~
7 ~~and contains requirements or exclusions, or both, expressly based~~
8 ~~upon that specified criminal conduct. The agency, officer, or~~
9 ~~official of the state authorized by this paragraph to receive state~~
10 ~~summary criminal history information may also transmit fingerprint~~
11 ~~images and related information to the Department of Justice to be~~
12 ~~transmitted to the Federal Bureau of Investigation.~~

13 ~~(11) Any city or county, city and county, district, or any officer~~
14 ~~or official thereof if access is needed in order to assist that agency,~~
15 ~~officer, or official in fulfilling employment, certification, or~~
16 ~~licensing duties, and if the access is specifically authorized by the~~
17 ~~city council, board of supervisors, or governing board of the city,~~
18 ~~county, or district if the criminal history information is required~~
19 ~~to implement a statute, ordinance, or regulation that expressly~~
20 ~~refers to specific criminal conduct applicable to the subject person~~
21 ~~of the state summary criminal history information, and contains~~
22 ~~requirements or exclusions, or both, expressly based upon that~~
23 ~~specified criminal conduct. The city or county, city and county,~~
24 ~~district, or the officer or official thereof authorized by this~~
25 ~~paragraph may also transmit fingerprint images and related~~
26 ~~information to the Department of Justice to be transmitted to the~~
27 ~~Federal Bureau of Investigation.~~

28 ~~(12) The subject of the state summary criminal history~~
29 ~~information under procedures established under Article 5~~
30 ~~(commencing with Section 11120).~~

31 ~~(13) Any person or entity when access is expressly authorized~~
32 ~~by statute if the criminal history information is required to~~
33 ~~implement a statute or regulation that expressly refers to specific~~
34 ~~criminal conduct applicable to the subject person of the state~~
35 ~~summary criminal history information, and contains requirements~~
36 ~~or exclusions, or both, expressly based upon that specified criminal~~
37 ~~conduct.~~

38 ~~(14) Health officers of a city, county, city and county, or district~~
39 ~~when in the performance of their official duties enforcing Section~~
40 ~~120175 of the Health and Safety Code.~~

1 ~~(15) Any managing or supervising correctional officer of a~~
2 ~~county jail or other county correctional facility.~~

3 ~~(16) Any humane society, or society for the prevention of cruelty~~
4 ~~to animals, for the specific purpose of complying with Section~~
5 ~~14502 of the Corporations Code for the appointment of humane~~
6 ~~officers.~~

7 ~~(17) Local child support agencies established by Section 17304~~
8 ~~of the Family Code. When a local child support agency closes a~~
9 ~~support enforcement case containing summary criminal history~~
10 ~~information, the agency shall delete or purge from the file and~~
11 ~~destroy any documents or information concerning or arising from~~
12 ~~offenses for or of which the parent has been arrested, charged, or~~
13 ~~convicted, other than for offenses related to the parent's having~~
14 ~~failed to provide support for minor children, consistent with the~~
15 ~~requirements of Section 17531 of the Family Code.~~

16 ~~(18) County child welfare agency personnel who have been~~
17 ~~delegated the authority of county probation officers to access state~~
18 ~~summary criminal history information pursuant to Section 272 of~~
19 ~~the Welfare and Institutions Code for the purposes specified in~~
20 ~~Section 16504.5 of the Welfare and Institutions Code. Information~~
21 ~~from criminal history records provided pursuant to this subdivision~~
22 ~~shall not be used for any purposes other than those specified in~~
23 ~~this section and Section 16504.5 of the Welfare and Institutions~~
24 ~~Code. When an agency obtains records obtained both on the basis~~
25 ~~of name checks and fingerprint checks, final placement decisions~~
26 ~~shall be based only on the records obtained pursuant to the~~
27 ~~fingerprint check.~~

28 ~~(19) The court of a tribe, or court of a consortium of tribes, that~~
29 ~~has entered into an agreement with the state pursuant to Section~~
30 ~~10553.1 of the Welfare and Institutions Code. This information~~
31 ~~may be used only for the purposes specified in Section 16504.5~~
32 ~~of the Welfare and Institutions Code and for tribal approval or~~
33 ~~tribal licensing of foster care or adoptive homes. Article 6~~
34 ~~(commencing with Section 11140) shall apply to officers, members,~~
35 ~~and employees of a tribal court receiving criminal record offender~~
36 ~~information pursuant to this section.~~

37 ~~(20) Child welfare agency personnel of a tribe or consortium~~
38 ~~of tribes that has entered into an agreement with the state pursuant~~
39 ~~to Section 10553.1 of the Welfare and Institutions Code and to~~
40 ~~whom the state has delegated duties under paragraph (2) of~~

1 subdivision (a) of Section 272 of the Welfare and Institutions Code.
2 The purposes for use of the information shall be for the purposes
3 specified in Section 16504.5 of the Welfare and Institutions Code
4 and for tribal approval or tribal licensing of foster care or adoptive
5 homes. When an agency obtains records on the basis of name
6 checks and fingerprint checks, final placement decisions shall be
7 based only on the records obtained pursuant to the fingerprint
8 check. Article 6 (commencing with Section 11140) shall apply to
9 child welfare agency personnel receiving criminal record offender
10 information pursuant to this section.

11 ~~(21) An officer providing conservatorship investigations~~
12 ~~pursuant to Sections 5351, 5354, and 5356 of the Welfare and~~
13 ~~Institutions Code.~~

14 ~~(22) A court investigator providing investigations or reviews~~
15 ~~in conservatorships pursuant to Section 1826, 1850, 1851, or~~
16 ~~2250.6 of the Probate Code.~~

17 ~~(23) A person authorized to conduct a guardianship investigation~~
18 ~~pursuant to Section 1513 of the Probate Code.~~

19 ~~(24) A humane officer pursuant to Section 14502 of the~~
20 ~~Corporations Code for the purposes of performing his or her duties.~~

21 ~~(25) A public agency described in subdivision (b) of Section~~
22 ~~15975 of the Government Code, for the purpose of oversight and~~
23 ~~enforcement policies with respect to its contracted providers.~~

24 ~~(e) The Attorney General may furnish state summary criminal~~
25 ~~history information and, when specifically authorized by this~~
26 ~~subdivision, federal level criminal history information upon a~~
27 ~~showing of a compelling need to any of the following, provided~~
28 ~~that when information is furnished to assist an agency, officer, or~~
29 ~~official of state or local government, a public utility, or any other~~
30 ~~entity in fulfilling employment, certification, or licensing duties,~~
31 ~~Chapter 1321 of the Statutes of 1974 and Section 432.7 of the~~
32 ~~Labor Code shall apply:~~

33 ~~(1) Any public utility, as defined in Section 216 of the Public~~
34 ~~Utilities Code, that operates a nuclear energy facility when access~~
35 ~~is needed in order to assist in employing persons to work at the~~
36 ~~facility, provided that, if the Attorney General supplies the data,~~
37 ~~he or she shall furnish a copy of the data to the person to whom~~
38 ~~the data relates.~~

39 ~~(2) To a peace officer of the state other than those included in~~
40 ~~subdivision (b).~~

~~(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.~~

~~(4) To a peace officer of another country.~~

~~(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.~~

~~(6) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.~~

~~(7) The courts of the United States, other states, or territories or possessions of the United States.~~

~~(8) Peace officers of the United States, other states, or territories or possessions of the United States.~~

~~(9) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.~~

~~(10) (A) (i) Any public utility, as defined in Section 216 of the Public Utilities Code, or any cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.~~

~~(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.~~

~~(iii) Any information obtained from the state summary criminal history is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not~~

1 more than 30 days after employment or promotion or transfer is
2 denied or granted, except for those cases where a current or
3 prospective employee is out on bail or on his or her own
4 recognizance pending trial, in which case the state summary
5 criminal history information and all copies shall be destroyed not
6 more than 30 days after the case is resolved.

7 (iv) A violation of this paragraph is a misdemeanor, and shall
8 give the current or prospective employee who is injured by the
9 violation a cause of action against the public utility or cable
10 corporation to recover damages proximately caused by the
11 violations. Any public utility's or cable corporation's request for
12 state summary criminal history information for purposes of
13 employing current or prospective employees who may be seeking
14 entrance to private residences or adjacent grounds in the course
15 of their employment shall be deemed a "compelling need" as
16 required to be shown in this subdivision.

17 (v) Nothing in this section shall be construed as imposing any
18 duty upon public utilities or cable corporations to request state
19 summary criminal history information on any current or prospective
20 employees.

21 (B) For purposes of this paragraph, "cable corporation" means
22 any corporation or firm that transmits or provides television,
23 computer, or telephone services by cable, digital, fiber optic,
24 satellite, or comparable technology to subscribers for a fee.

25 (C) Requests for federal level criminal history information
26 received by the Department of Justice from entities authorized
27 pursuant to subparagraph (A) shall be forwarded to the Federal
28 Bureau of Investigation by the Department of Justice. Federal level
29 criminal history information received or compiled by the
30 Department of Justice may then be disseminated to the entities
31 referenced in subparagraph (A), as authorized by law.

32 (D) (i) Authority for a cable corporation to request state or
33 federal level criminal history information under this paragraph
34 shall commence July 1, 2005.

35 (ii) Authority for a public utility to request federal level criminal
36 history information under this paragraph shall commence July 1,
37 2005.

38 (11) To any campus of the California State University or the
39 University of California, or any four year college or university
40 accredited by a regional accreditation organization approved by

1 the United States Department of Education, if needed in
2 conjunction with an application for admission by a convicted felon
3 to any special education program for convicted felons, including,
4 but not limited to, university alternatives and halfway houses. Only
5 conviction information shall be furnished. The college or university
6 may require the convicted felon to be fingerprinted, and any inquiry
7 to the department under this section shall include the convicted
8 felon's fingerprints and any other information specified by the
9 department.

10 (12) To any foreign government, if requested by the individual
11 who is the subject of the record requested, if needed in conjunction
12 with the individual's application to adopt a minor child who is a
13 citizen of that foreign nation. Requests for information pursuant
14 to this paragraph shall be in accordance with the process described
15 in Sections 11122 to 11124, inclusive. The response shall be
16 provided to the foreign government or its designee and to the
17 individual who requested the information.

18 (d) Whenever an authorized request for state summary criminal
19 history information pertains to a person whose fingerprints are on
20 file with the Department of Justice and the department has no
21 criminal history of that person, and the information is to be used
22 for employment, licensing, or certification purposes, the fingerprint
23 card accompanying the request for information, if any, may be
24 stamped "no criminal record" and returned to the person or entity
25 making the request.

26 (e) Whenever state summary criminal history information is
27 furnished as the result of an application and is to be used for
28 employment, licensing, or certification purposes, the Department
29 of Justice may charge the person or entity making the request a
30 fee that it determines to be sufficient to reimburse the department
31 for the cost of furnishing the information. In addition, the
32 Department of Justice may add a surcharge to the fee to fund
33 maintenance and improvements to the systems from which the
34 information is obtained. Notwithstanding any other law, any person
35 or entity required to pay a fee to the department for information
36 received under this section may charge the applicant a fee sufficient
37 to reimburse the person or entity for this expense. All moneys
38 received by the department pursuant to this section, Sections
39 11105.3 and 26190, and former Section 13588 of the Education
40 Code shall be deposited in a special account in the General Fund

1 to be available for expenditure by the department to offset costs
2 incurred pursuant to those sections and for maintenance and
3 improvements to the systems from which the information is
4 obtained upon appropriation by the Legislature.

5 (f) Whenever there is a conflict, the processing of criminal
6 fingerprints and fingerprints of applicants for security guard or
7 alarm agent registrations or firearms qualification permits
8 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
9 of the Business and Professions Code shall take priority over the
10 processing of other applicant fingerprints.

11 (g) It is not a violation of this section to disseminate statistical
12 or research information obtained from a record, provided that the
13 identity of the subject of the record is not disclosed.

14 (h) It is not a violation of this section to include information
15 obtained from a record in (1) a transcript or record of a judicial or
16 administrative proceeding or (2) any other public record if the
17 inclusion of the information in the public record is authorized by
18 a court, statute, or decisional law.

19 (i) Notwithstanding any other law, the Department of Justice
20 or any state or local law enforcement agency may require the
21 submission of fingerprints for the purpose of conducting summary
22 criminal history information checks that are authorized by law.

23 (j) The state summary criminal history information shall include
24 any finding of mental incompetence pursuant to Chapter 6
25 (commencing with Section 1367) of Title 10 of Part 2 arising out
26 of a complaint charging a felony offense specified in Section 290.

27 (k) (1) This subdivision shall apply whenever state or federal
28 summary criminal history information is furnished by the
29 Department of Justice as the result of an application by an
30 authorized agency or organization and the information is to be
31 used for peace officer employment or certification purposes. As
32 used in this subdivision, a peace officer is defined in Chapter 4.5
33 (commencing with Section 830) of Title 3 of Part 2.

34 (2) Notwithstanding any other provision of law, whenever state
35 summary criminal history information is initially furnished
36 pursuant to paragraph (1), the Department of Justice shall
37 disseminate the following information:

38 (A) Every conviction rendered against the applicant.

39 (B) Every arrest for an offense for which the applicant is
40 presently awaiting trial, whether the applicant is incarcerated or

1 has been released on bail or on his or her own recognizance
2 pending trial.

3 (C) Every arrest or detention, except for an arrest or detention
4 resulting in an exoneration, provided, however, that where the
5 records of the Department of Justice do not contain a disposition
6 for the arrest, the Department of Justice first makes a genuine effort
7 to determine the disposition of the arrest.

8 (D) Every successful diversion.

9 (E) Every date and agency name associated with all retained
10 peace officer or nonsworn law enforcement agency employee
11 preemployment criminal offender record information search
12 requests.

13 (f) (1) This subdivision shall apply whenever state or federal
14 summary criminal history information is furnished by the
15 Department of Justice as the result of an application by a criminal
16 justice agency or organization as defined in Section 13101, and
17 the information is to be used for criminal justice employment,
18 licensing, or certification purposes.

19 (2) Notwithstanding any other provision of law, whenever state
20 summary criminal history information is initially furnished
21 pursuant to paragraph (1), the Department of Justice shall
22 disseminate the following information:

23 (A) Every conviction rendered against the applicant.

24 (B) Every arrest for an offense for which the applicant is
25 presently awaiting trial, whether the applicant is incarcerated or
26 has been released on bail or on his or her own recognizance
27 pending trial.

28 (C) Every arrest for an offense for which the records of the
29 Department of Justice do not contain a disposition or did not result
30 in a conviction, provided that the Department of Justice first makes
31 a genuine effort to determine the disposition of the arrest. However,
32 information concerning an arrest shall not be disclosed if the
33 records of the Department of Justice indicate or if the genuine
34 effort reveals that the subject was exonerated, successfully
35 completed a diversion or deferred entry of judgment program, or
36 the arrest was deemed a detention.

37 (D) Every date and agency name associated with all retained
38 peace officer or nonsworn law enforcement agency employee
39 preemployment criminal offender record information search
40 requests.

~~(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.~~

~~(2) Notwithstanding any other provision of law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:~~

~~(A) Every conviction of an offense rendered against the applicant, except a conviction for which the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, 1203.45, or 1210.1~~

~~(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.~~

~~(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.~~

~~(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.~~

~~(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:~~

~~(A) Paragraph (9) of subdivision (c), when the information is to be used by a cable corporation.~~

~~(B) Section 11105.3 or 11105.4.~~

1 ~~(C) Section 15660 of the Welfare and Institutions Code.~~

2 ~~(D) Any statute that incorporates the criteria of any of the~~
3 ~~statutory provisions listed in subparagraph (A), (B), or (C), or of~~
4 ~~this subdivision, by reference.~~

5 ~~(2) With the exception of applications submitted by~~
6 ~~transportation companies authorized pursuant to Section 11105.3,~~
7 ~~and notwithstanding any other provision of law, whenever state~~
8 ~~summary criminal history information is initially furnished~~
9 ~~pursuant to paragraph (1), the Department of Justice shall~~
10 ~~disseminate the following information:~~

11 ~~(A) Every conviction rendered against the applicant for a~~
12 ~~violation or attempted violation of any offense specified in~~
13 ~~subdivision (a) of Section 15660 of the Welfare and Institutions~~
14 ~~Code, except a conviction for which the applicant has been granted~~
15 ~~relief pursuant to Section 1203.4, 1203.4a, 1203.45, or 1210.1.~~
16 ~~However, with the exception of those offenses for which~~
17 ~~registration is required pursuant to Section 290, the Department~~
18 ~~of Justice shall not disseminate information pursuant to this~~
19 ~~subdivision unless the conviction occurred within 10 years of the~~
20 ~~date of the agency's request for information or the conviction is~~
21 ~~over 10 years old but the subject of the request was incarcerated~~
22 ~~within 10 years of the agency's request for information.~~

23 ~~(B) Every arrest for a violation or attempted violation of an~~
24 ~~offense specified in subdivision (a) of Section 15660 of the Welfare~~
25 ~~and Institutions Code for which the applicant is presently awaiting~~
26 ~~trial, whether the applicant is incarcerated or has been released on~~
27 ~~bail or on his or her own recognizance pending trial.~~

28 ~~(c) (1) This subdivision shall apply whenever state or federal~~
29 ~~summary criminal history information is furnished by the~~
30 ~~Department of Justice as the result of an application by an~~
31 ~~authorized agency or organization pursuant to Section 379 or 550~~
32 ~~of the Financial Code, or any statute that incorporates the criteria~~
33 ~~of either of those sections or this subdivision by reference, and the~~
34 ~~information is to be used for employment, licensing, or certification~~
35 ~~purposes.~~

36 ~~(2) Notwithstanding any other provision of law, whenever state~~
37 ~~summary criminal history information is initially furnished~~
38 ~~pursuant to paragraph (1), the Department of Justice shall~~
39 ~~disseminate the following information:~~

1 ~~(A) Every conviction rendered against the applicant for a~~
2 ~~violation or attempted violation of any offense specified in Section~~
3 ~~550 of the Financial Code, except a conviction for which the~~
4 ~~applicant has been granted relief pursuant to Section 1203.4,~~
5 ~~1203.4a, 1203.45, or 1210.1.~~

6 ~~(B) Every arrest for a violation or attempted violation of an~~
7 ~~offense specified in Section 550 of the Financial Code for which~~
8 ~~the applicant is presently awaiting trial, whether the applicant is~~
9 ~~incarcerated or has been released on bail or on his or her own~~
10 ~~recognizance pending trial.~~

11 ~~(p) (1) This subdivision shall apply whenever state or federal~~
12 ~~criminal history information is furnished by the Department of~~
13 ~~Justice as the result of an application by an agency, organization,~~
14 ~~or individual not defined in subdivision (k), (l), (m), (n), or (o), or~~
15 ~~by a transportation company authorized pursuant to Section~~
16 ~~11105.3, or any statute that incorporates the criteria of that section~~
17 ~~or this subdivision by reference, and the information is to be used~~
18 ~~for employment, licensing, or certification purposes.~~

19 ~~(2) Notwithstanding any other provisions of law, whenever state~~
20 ~~summary criminal history information is initially furnished~~
21 ~~pursuant to paragraph (1), the Department of Justice shall~~
22 ~~disseminate the following information:~~

23 ~~(A) Every conviction rendered against the applicant, except a~~
24 ~~conviction for which the applicant has been granted relief pursuant~~
25 ~~to Section 1203.4, 1203.4a, 1203.45, or 1210.1.~~

26 ~~(B) Every arrest for an offense for which the applicant is~~
27 ~~presently awaiting trial, whether the applicant is incarcerated or~~
28 ~~has been released on bail or on his or her own recognizance~~
29 ~~pending trial.~~

30 ~~(q) All agencies, organizations, or individuals defined in~~
31 ~~subdivisions (k), (l), (m), (n), (o), and (p) may contract with the~~
32 ~~Department of Justice for subsequent notification pursuant to~~
33 ~~Section 11105.2. This subdivision shall not supersede sections that~~
34 ~~mandate an agency, organization, or individual to contract with~~
35 ~~the Department of Justice for subsequent notification pursuant to~~
36 ~~Section 11105.2.~~

37 ~~(r) Nothing in this section shall be construed to mean that the~~
38 ~~Department of Justice shall cease compliance with any other~~
39 ~~statutory notification requirements.~~

1 ~~(s) The provisions of Section 50.12 of Title 28 of the Code of~~
2 ~~Federal Regulations are to be followed in processing federal~~
3 ~~criminal history information.~~

4 ~~(t) Whenever state or federal summary criminal history~~
5 ~~information is furnished by the Department of Justice as the result~~
6 ~~of an application by an authorized agency, organization, or~~
7 ~~individual defined in subdivisions (k) to (p), inclusive, and the~~
8 ~~information is to be used for employment, licensing, or certification~~
9 ~~purposes, the authorized agency, organization, or individual shall~~
10 ~~expeditiously furnish a copy of the information to the person to~~
11 ~~whom the information relates if the information is a basis for an~~
12 ~~adverse employment, licensing, or certification decision. When~~
13 ~~furnished other than in person, the copy shall be delivered to the~~
14 ~~last contact information provided by the applicant.~~

15 SEC. 3. Section 13300 of the Penal Code is amended to read:

16 13300. (a) As used in this section:

17 (1) “Local summary criminal history information” means the
18 master record of information compiled by any local criminal justice
19 agency pursuant to Chapter 2 (commencing with Section 13100)
20 of Title 3 of Part 4 pertaining to the identification and criminal
21 history of any person, such as name, date of birth, physical
22 description, dates of arrests, arresting agencies and booking
23 numbers, charges, dispositions, and similar data about the person.

24 (2) “Local summary criminal history information” does not
25 refer to records and data compiled by criminal justice agencies
26 other than that local agency, nor does it refer to records of
27 complaints to or investigations conducted by, or records of
28 intelligence information or security procedures of, the local agency.

29 (3) “Local agency” means a local criminal justice agency.

30 (b) A local agency shall furnish local summary criminal history
31 information to any of the following, when needed in the course of
32 their duties, provided that when information is furnished to assist
33 an agency, officer, or official of state or local government, a public
34 utility, or any entity, in fulfilling employment, certification, or
35 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
36 432.7 of the Labor Code shall apply:

37 (1) The courts of the state.

38 (2) Peace officers of the state, as defined in Section 830.1,
39 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),

1 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
2 Section 830.5.

3 (3) District attorneys of the state.

4 (4) Prosecuting city attorneys of any city within the state.

5 (5) City attorneys pursuing civil gang injunctions pursuant to
6 Section 186.22a, or drug abatement actions pursuant to Section
7 3479 or 3480 of the Civil Code, or Section 11571 of the Health
8 and Safety Code.

9 (6) Probation officers of the state.

10 (7) Parole officers of the state.

11 (8) A public defender or attorney of record when representing
12 a person in proceedings upon a petition for a certificate of
13 rehabilitation and pardon pursuant to Section 4852.08.

14 (9) A public defender or attorney of record when representing
15 a person in a criminal case, or a parole, mandatory supervision, or
16 postrelease community supervision revocation or revocation
17 extension hearing, and when authorized access by statutory or
18 decisional law.

19 (10) Any agency, officer, or official of the state when the local
20 summary criminal history information is required to implement a
21 statute, regulation, or ordinance that expressly refers to specific
22 criminal conduct applicable to the subject person of the local
23 summary criminal history information, and contains requirements
24 or exclusions, or both, expressly based upon the specified criminal
25 conduct.

26 (11) Any city, county, city and county, or district, or any officer
27 or official thereof, when access is needed in order to assist the
28 agency, officer, or official in fulfilling employment, certification,
29 or licensing duties, and when the access is specifically authorized
30 by the city council, board of supervisors, or governing board of
31 the city, county, or district when the local summary criminal history
32 information is required to implement a statute, regulation, or
33 ordinance that expressly refers to specific criminal conduct
34 applicable to the subject person of the local summary criminal
35 history information, and contains requirements or exclusions, or
36 both, expressly based upon the specified criminal conduct.

37 (12) The subject of the local summary criminal history
38 information.

39 (13) Any person or entity when access is expressly authorized
40 by statute when the local summary criminal history information

1 is required to implement a statute, regulation, or ordinance that
2 expressly refers to specific criminal conduct applicable to the
3 subject person of the local summary criminal history information,
4 and contains requirements or exclusions, or both, expressly based
5 upon the specified criminal conduct.

6 (14) Any managing or supervising correctional officer of a
7 county jail or other county correctional facility.

8 (15) Local child support agencies established by Section 17304
9 of the Family Code. When a local child support agency closes a
10 support enforcement case containing summary criminal history
11 information, the agency shall delete or purge from the file and
12 destroy any documents or information concerning or arising from
13 offenses for or of which the parent has been arrested, charged, or
14 convicted, other than for offenses related to the parents having
15 failed to provide support for the minor children, consistent with
16 Section 17531 of the Family Code.

17 (16) County child welfare agency personnel who have been
18 delegated the authority of county probation officers to access state
19 summary criminal information pursuant to Section 272 of the
20 Welfare and Institutions Code for the purposes specified in Section
21 16504.5 of the Welfare and Institutions Code.

22 (17) A humane officer pursuant to Section 14502 of the
23 Corporations Code for the purposes of performing his or her duties.
24 A local agency may charge a reasonable fee sufficient to cover the
25 costs of providing information pursuant to this paragraph.

26 (c) The local agency may furnish local summary criminal history
27 information, upon a showing of a compelling need, to any of the
28 following, provided that when information is furnished to assist
29 an agency, officer, or official of state or local government, a public
30 utility, or any entity, in fulfilling employment, certification, or
31 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
32 432.7 of the Labor Code shall apply:

33 (1) Any public utility, as defined in Section 216 of the Public
34 Utilities Code, which operates a nuclear energy facility when access
35 is needed to assist in employing persons to work at the facility,
36 provided that, if the local agency supplies the information, it shall
37 furnish a copy of this information to the person to whom the
38 information relates.

39 (2) To a peace officer of the state other than those included in
40 subdivision (b).

1 (3) To a peace officer of another country.

2 (4) To public officers, other than peace officers, of the United
3 States, other states, or possessions or territories of the United
4 States, provided that access to records similar to local summary
5 criminal history information is expressly authorized by a statute
6 of the United States, other states, or possessions or territories of
7 the United States when this information is needed for the
8 performance of their official duties.

9 (5) To any person when disclosure is requested by a probation,
10 parole, or peace officer with the consent of the subject of the local
11 summary criminal history information and for purposes of
12 furthering the rehabilitation of the subject.

13 (6) The courts of the United States, other states, or territories
14 or possessions of the United States.

15 (7) Peace officers of the United States, other states, or territories
16 or possessions of the United States.

17 (8) To any individual who is the subject of the record requested
18 when needed in conjunction with an application to enter the United
19 States or any foreign nation.

20 (9) Any public utility, as defined in Section 216 of the Public
21 Utilities Code, when access is needed to assist in employing
22 persons who will be seeking entrance to private residences in the
23 course of their employment. The information provided shall be
24 limited to the record of convictions and any arrest for which the
25 person is released on bail or on his or her own recognizance
26 pending trial.

27 If the local agency supplies the information pursuant to this
28 paragraph, it shall furnish a copy of the information to the person
29 to whom the information relates.

30 Any information obtained from the local summary criminal
31 history is confidential and the receiving public utility shall not
32 disclose its contents, other than for the purpose for which it was
33 acquired. The local summary criminal history information in the
34 possession of the public utility and all copies made from it shall
35 be destroyed 30 days after employment is denied or granted,
36 including any appeal periods, except for those cases where an
37 employee or applicant is out on bail or on his or her own
38 recognizance pending trial, in which case the state summary
39 criminal history information and all copies shall be destroyed 30
40 days after the case is resolved, including any appeal periods.

1 A violation of any of the provisions of this paragraph is a
2 misdemeanor, and shall give the employee or applicant who is
3 injured by the violation a cause of action against the public utility
4 to recover damages proximately caused by the violation.

5 Nothing in this section shall be construed as imposing any duty
6 upon public utilities to request local summary criminal history
7 information on any current or prospective employee.

8 Seeking entrance to private residences in the course of
9 employment shall be deemed a “compelling need” as required to
10 be shown in this subdivision.

11 (10) Any city, county, city and county, or district, or any officer
12 or official thereof, if a written request is made to a local law
13 enforcement agency and the information is needed to assist in the
14 screening of a prospective concessionaire, and any affiliate or
15 associate thereof, as these terms are defined in subdivision (k) of
16 Section 432.7 of the Labor Code, for the purposes of consenting
17 to, or approving of, the prospective concessionaire’s application
18 for, or acquisition of, any beneficial interest in a concession, lease,
19 or other property interest.

20 Any local government’s request for local summary criminal
21 history information for purposes of screening a prospective
22 concessionaire and their affiliates or associates before approving
23 or denying an application for, or acquisition of, any beneficial
24 interest in a concession, lease, or other property interest is deemed
25 a “compelling need” as required by this subdivision. However,
26 only local summary criminal history information pertaining to
27 criminal convictions may be obtained pursuant to this paragraph.

28 Any information obtained from the local summary criminal
29 history is confidential and the receiving local government shall
30 not disclose its contents, other than for the purpose for which it
31 was acquired. The local summary criminal history information in
32 the possession of the local government and all copies made from
33 it shall be destroyed not more than 30 days after the local
34 government’s final decision to grant or deny consent to, or approval
35 of, the prospective concessionaire’s application for, or acquisition
36 of, a beneficial interest in a concession, lease, or other property
37 interest. Nothing in this section shall be construed as imposing
38 any duty upon a local government, or any officer or official thereof,
39 to request local summary criminal history information on any

1 current or prospective concessionaire or their affiliates or
2 associates.

3 (11) A public agency described in subdivision (b) of Section
4 15975 of the Government Code, for the purpose of oversight and
5 enforcement policies with respect to its contracted providers.

6 (d) Whenever an authorized request for local summary criminal
7 history information pertains to a person whose fingerprints are on
8 file with the local agency and the local agency has no criminal
9 history of that person, and the information is to be used for
10 employment, licensing, or certification purposes, the fingerprint
11 card accompanying the request for information, if any, may be
12 stamped “no criminal record” and returned to the person or entity
13 making the request.

14 (e) A local agency taking fingerprints of a person who is an
15 applicant for licensing, employment, or certification may charge
16 a fee to cover the cost of taking the fingerprints and processing
17 the required documents.

18 (f) Whenever local summary criminal history information
19 furnished pursuant to this section is to be used for employment,
20 licensing, or certification purposes, the local agency shall charge
21 the person or entity making the request a fee which it determines
22 to be sufficient to reimburse the local agency for the cost of
23 furnishing the information, provided that no fee shall be charged
24 to any public law enforcement agency for local summary criminal
25 history information furnished to assist it in employing, licensing,
26 or certifying a person who is applying for employment with the
27 agency as a peace officer or criminal investigator. Any state agency
28 required to pay a fee to the local agency for information received
29 under this section may charge the applicant a fee sufficient to
30 reimburse the agency for the expense.

31 (g) Whenever there is a conflict, the processing of criminal
32 fingerprints shall take priority over the processing of applicant
33 fingerprints.

34 (h) It is not a violation of this article to disseminate statistical
35 or research information obtained from a record, provided that the
36 identity of the subject of the record is not disclosed.

37 (i) It is not a violation of this article to include information
38 obtained from a record in (1) a transcript or record of a judicial or
39 administrative proceeding or (2) any other public record when the

1 inclusion of the information in the public record is authorized by
2 a court, statute, or decisional law.

3 (j) Notwithstanding any other law, a public prosecutor may, in
4 response to a written request made pursuant to Section 6253 of
5 the Government Code, provide information from a local summary
6 criminal history, if release of the information would enhance public
7 safety, the interest of justice, or the public's understanding of the
8 justice system and the person making the request declares that the
9 request is made for a scholarly or journalistic purpose. If a person
10 in a declaration required by this subdivision willfully states as true
11 any material fact that he or she knows to be false, he or she shall
12 be subject to a civil penalty not exceeding ten thousand dollars
13 (\$10,000). The requestor shall be informed in writing of this
14 penalty. An action to impose a civil penalty under this subdivision
15 may be brought by any public prosecutor and shall be enforced as
16 a civil judgment.

17 (k) Notwithstanding any other law, the Department of Justice
18 or any state or local law enforcement agency may require the
19 submission of fingerprints for the purpose of conducting summary
20 criminal history information record checks which are authorized
21 by law.

22 (l) Any local criminal justice agency may release, within five
23 years of the arrest, information concerning an arrest or detention
24 of a peace officer or applicant for a position as a peace officer, as
25 defined in Section 830, which did not result in conviction, and for
26 which the person did not complete a postarrest diversion program
27 or a deferred entry of judgment program, to a government agency
28 employer of that peace officer or applicant.

29 (m) Any local criminal justice agency may release information
30 concerning an arrest of a peace officer or applicant for a position
31 as a peace officer, as defined in Section 830, which did not result
32 in conviction but for which the person completed a postarrest
33 diversion program or a deferred entry of judgment program, or
34 information concerning a referral to and participation in any
35 postarrest diversion program or a deferred entry of judgment
36 program to a government agency employer of that peace officer
37 or applicant.

38 (n) Notwithstanding subdivision (l) or (m), a local criminal
39 justice agency shall not release information under the following
40 circumstances:

1 (1) Information concerning an arrest for which diversion or a
2 deferred entry of judgment program has been ordered without
3 attempting to determine whether diversion or a deferred entry of
4 judgment program has been successfully completed.

5 (2) Information concerning an arrest or detention followed by
6 a dismissal or release without attempting to determine whether the
7 individual was exonerated.

8 (3) Information concerning an arrest without a disposition
9 without attempting to determine whether diversion has been
10 successfully completed or the individual was exonerated.

11 ~~SEC. 4. Section 2.5 of this bill incorporates amendments to~~
12 ~~Section 11105 of the Penal Code proposed by both this bill and~~
13 ~~Senate Bill 530. It shall only become operative if (1) both bills are~~
14 ~~enacted and become effective on or before January 1, 2014, (2)~~
15 ~~each bill amends Section 11105 of the Penal Code, and (3) this~~
16 ~~bill is enacted after Senate Bill 530, in which case Section 2 of~~
17 ~~this bill shall not become operative.~~